

Message Text

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ACTION MC-02

INFO OCT-01 EUR-25 ISO-00 PM-07 CIAE-00 INR-10 NSAE-00

RSC-01 DODE-00 EB-11 TRSE-00 L-03 COME-00 EA-11 DRC-01

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R 251647Z MAR 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 1313

AMCONSUL MUNICH

C O N F I D E N T I A L BONN 04705

E.O.: 11652 GDS

TAGS: MILI, GW

SUBJECT: TELEMIT SALES OF AN/PRC-77 MILITARY RADIOS

REF: STATE 056364

1. WE RAISED MATTER OF TELEMIT AN/PRC-77 SALE TO PEOPLES REPUBLIC OF CHINE (PRC) WITH RESPONSIBLE OFFICIAL AT MINISTRY OF ECONOMIC MARCH 22, AND TOOK THE OCCASION TO REVIEW FRG VIEWS ABOUT THE OVERALL PROBLEM OF TELEMIT'S UNAUTHORIZED USE OF US OWNED TECHNICAL DATA. OUR CONTACT SAID THE MINISTRY OF ECONOMICS HAD NO INFORMATION TO THE EFFECT THAT TELEMIT WAS DISCUSSING A SALE TO PRC AND POINTED OUT IN COURSE OF DISCUSSION THAT THE FRG HAS A STRICT PROHIBITION ON EXPORT OF MILITARY MATERIAL, INCLUDING SUCH ITEMS AS THE AN/PRC'S, TO ALL COMMUNIST COUNTRIES. (WE GATHERED, HOWEVER, THAT BECAUSE OF THE METHOD OF FRG LICENSING, IT WOULD BE POSSIBLE FOR TELEMIT TO HAVE APPLIED FOR AN EXPORT LICENSE TO SELL THE RADIOS TO PRC WITHOUT THE ECONOMIC MINISTRY BEING INFORMED ABOUT IT UNTIL AT A LATER STEP IN THE LICENSE PROCESSING, WHEN THE MINISTRY WOULD ACTUALLY REVIEW THE FORMAL EXPORT APPLICATION. FOR THIS REASON WE CANNOT DISCOUNT THE REPORT IN REFTEL.)

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2. OUR CONTACT ALSO SAID THAT ANY SUCH EXPORT TO THE PRC WOULD BE SUBJECT TO COCOM APPROVAL AND THAT THE US WOULD, THEREFORE, BE IN POSITION TO VETO THE MATTER. HOWEVER, HE NOTED THAT THERE IS NO LIKELIHOOD THE FRG WOULD APPROVE THE APPLICATION UNDER CURRENT POLICY CONTROLS OVER MILITARY EQUIPMENT SALES TO COMMUNIST COUNTRIES.

3. IN OUR DISCUSSION OF THE TELEMAT AFFAIR, THE OFFICIAL EMPHASIZED THAT THE PROBLEM WAS RECEIVING SYMPATHETIC HIGH-LEVEL ATTENTION AND THE FRG WAS WELL AWARE OF USG CONCERNS ABOUT THE MISUSE OF US OWNED TECHNOLOGY. HE ALSO SAID HE UNDERSTOOD THE PROBLEM COULD EVENTUALLY RESULT IN A US MOVE TO CUT OFF FURTHER TECHNOLOGICAL INFORMATION TO THE FRG. HE NOTED, HOWEVER, THAT UNDER GERMAN LAW THE UNAUTHORIZED REPRODUCTION OF THE RADIOS IS AN INFRINGEMENT ON FOREIGN RIGHTS AND IS EXCLUSIVELY A CIVIL LAW MATTER. IN ADDITION, THERE IS NO PROVISION UNDER GERMAN LAW WHICH WOULD ENABLE THE FRG TO BY PASS THE CIVIL COURTS AND INTERVENE DIRECTLY ON BEHALF OF THE USG TO PROHIBIT TELEMAT'S UNAUTHORIZED REPRODUCTION OF THE RADIOS.

4. IN REPLY TO OUR QUESTION ABOUT FRG SUSPENSION OF FURTHER TELEMAT EXPORTS OF THE RADIOS, THE OFFICIAL STATED THE FRG FOUND IT NECESSARY TO APPROVE A RECENT SALE TO AUSTRIA, FOR USE BY THE AUSTRIAN ARMY. HE SAID THIS WAS THE ONLY EXPORT LICENSE APPLICATION APPROVED SINCE THE US INTERVENTION. WHEN WE ASKED HOW THIS SALE RELATED TO THE REVIEW NOW UNDERWAY BY THE FEDERAL SECURITY COUNCIL (BUNDESSICHERHEITSRAT), HE NOTED THAT THE COUNCIL'S REVIEW IS A COMPREHENSIVE ONE, COVERING BROAD FRG POLICY AS WELL AS THE SPECIFIC PROBLEM OF US OWNERSHIP RIGHTS ON THE AN/PRC-77'S. THE APPROVAL OF THE LICENSE TO AUSTRIA TOOK PLACE, THEREFORE, UNDER CURRENT POLICY GUIDANCE WHICH WILL NECESSARILY REMAIN IN EFFECT PENDING THE SECURITY COUNCIL'S REVIEW. RESULTS OF FEDERAL SECURITY COUNCIL REVIEW ARE EXPECTED IN EARLY APRIL.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXPORT CONTROLS, TECHNOLOGICAL EXCHANGES, EXPORT LICENSES
Control Number: n/a
Copy: SINGLE
Draft Date: 25 MAR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974BONN04705
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740063-1045
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740319/aaaaaret.tel
Line Count: 107
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION MC
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: STATE 056364
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 07 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 MAY 2002 by shawdg>; APPROVED <04 FEB 2003 by GolinoFR>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TELEMAT SALES OF AN/PRC-77 MILITARY RADIOS
TAGS: MILI, GE
To: STATE MUNICH
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005